PROFESSIONALS CAN'T CLAIM SEC 32 TAX BENEFIT, SAYS SC

The Supreme Court said on Tuesday professionals cannot claim depreciation under Section 32 of the Income Tax Act. The Section is applicable to an assessee carrying on "business" and not to a professional, the apex court said, dismissing an appeal of a chartered accountants' firm which had sought deduction under this provision.

The appellant, GK Choksi & Company, an Ahmedabad-based chartered accountants firm, had claimed depreciation for the assessment year 1984-85. During the year, the appellant constructed a residential building for its low-paid employees and claimed initial depreciation of 40% under Section 32(1)(iv) of the Act, amounting to Rs 43,505, on the actual cost of the building that stood at Rs 1,08,757.

The I-T department, on January 15, 1985, rejected the claim on the ground that the said provision was applicable to an assessee carrying on "business" and it was not available to a professional. 3

On the plea of the assessee, the commissioner of income tax (appeals) reversed the order of the income tax officer dealing with the case. The revenue department then filed an appeal before the Income Tax Appellate Tribunal which overturned CIT (A) order and restored the order passed by the ITO.

The matter then came to Gujarat high court which upheld the tribunal's order. The assessee then appealed at the apex court.

An SC bench comprising Justices Ashok Bhan, HS Bedi and VS Sirpurkar said: "The word 'business' occurring in clause (iv) of Section 32(1), by no stretch of imagination, can be said to include 'profession' as well. There is nothing in Section 32(1)(iv) which envisages the scope of word 'business' to include in it 'profession' as well."